



# State Natural Resources Conservation Council (NRCC)

An Agency of State Government, Serving Vermont's 14 Conservation Districts

## Vermont Association of Conservation Districts (VACD)

Our Land. Our Water. Our Future.

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### Comments on S.96 - February 26, 2019

We are not able support this legislation. Below please find our reasons and recommendations.

- 1. It appears that the proposed system will function as a substitute for DEC expanding its basin planning, grant management, and financial management staff to fulfill its clean water obligations, and that ANR would be outsourcing a portion of DEC's responsibilities.** We believe this would diffuse responsibility for fulfilling those obligations. DEC is delegated by USEPA to implement the Clean Water Act, holds much of the responsibility for fulfilling the Lake Champlain TMDL, and has the strongest scientific and technical capacity to oversee clean water programs.

**Recommendation:** Increase DEC staff including basin planning, grant-making, and financial management personnel. Have DEC convene technical advisory committees and manage grant-making at the local level through the tactical basin planning program. This would ensure consistency with the State's goals, support a science-based approach, and ensure neutrality and fairness in the distribution of funds among clean water program implementers. (The Agency of Agriculture, Food and Markets has significantly expanded its water quality staff to meet its obligations.)

- 2. The proposed funding distribution system does not increase efficiency and effectiveness.** The proposed system creates unnecessary duplication at the local level, which will not be cost-effective or time efficient, and will undermine the benefits of centralized grant-making. Please refer to the attached example structure charts which demonstrate this.

**Recommendation:** Continue and improve upon the current centralized block grant system which provides state agencies with a statewide program delivery mechanism through a single point of contact who is responsible for developing program standards, ensuring program consistency, communicating program requirements, developing program reporting systems and ensuring accountability. For conservation districts this central point of contact provides simplified applications, expedited funding agreements, and technical training and support. This system enables districts to develop a consistent and high-quality program portfolio, as well as retain qualified and experienced staff. The breakup of this system through a decentralized approach would result in the loss of many efficiencies and advantages to both state agencies and local implementers.

The State Natural Resources Council (NRCC) and conservation districts stand ready to build upon, improve, and expand the central block grant system to help state agencies achieve our shared water quality goals. We have provided suggestions to DEC regarding how to improve this system, including providing longer agreements and developing single block grants for all phases of project identification, development and implementation. We believe that this system provides the most efficient and effective mechanism for state agencies to deliver water quality programs statewide at the local level.

- 3. The proposed system does not provide assurances that clean water funding will be distributed in a fair and equitable manner among all implementers, and does not address potential conflicts of interest.** The bill provides funding to one group of implementers, regional planning commissions, and leaves it up to those implementers to decide how the work will get done. It provides no guidance on fair and equitable procurement processes and no assurance that other partners, including conservation districts and watershed groups, will have the necessary access to resources for clean water project implementation, despite our legal mandate and years of successful experience doing so. The bill effectively disenfranchises conservation districts and watershed groups, who are mentioned in a consultative role only, with no decision-making authority.

We need to understand ANR's vision for the future participation of conservation districts and watershed groups in Vermont's clean water efforts, since the legislation excludes us. We do not believe that Vermont will be able to achieve its water quality obligations and goals without our assistance.

**Recommendation:** Create language that empowers clean water partners and recognizes the unique skill sets and experience of all implementers, including conservation districts and watershed groups, provides equal access to funding, removes road blocks to implementation, ensures that fair and transparent procurement processes will be used, and that steps are taken to avoid conflicts of interest.

- 4. The use of Clean Water Fund funds to support regulatory vs nonregulatory compliance programs is very unclear in this bill.** The bill suggests that the Secretary shall determine whether implementation of existing regulatory programs will achieve water quality standards in an impaired water. If the secretary determines that existing regulatory programs will not achieve water quality standards, the Secretary shall determine the amount of additional pollutant reduction necessary to achieve water quality standards. The text goes on to list the sectors that may be considered, but does not define whether the regulatory or nonregulatory practices are being funded under this bill. Currently, a significant portion of Clean Water Fund funds are used to support landowners and communities in fulfilling regulatory requirements. Reducing or eliminating this funding would have a serious negative impact on the State's ability to fulfill its clean water obligations.

**Recommendation:** If ANR would like to experiment with distributing a portion of Clean Water Fund funds for clean water implementation through a decentralized regional system, carve off a portion – not all or most – Clean Water Funds for this activity. Provide clarity on what proportion of the CWF funds will be used for various purposes, rather than an uncertain list of priorities.

- 5. The proposed structure is not suitable for working with the agricultural community and fails to ensure adequate funding for work with the agricultural community.** Work with the agricultural community is being carried out by an inter-woven set of partners called the Vermont Agricultural Water Quality Partnership which coordinates federal, state and local initiatives at the state level. Much of this work enables farmers to comply with the Required Agricultural Practices. An attempt to decentralize this system would undermine its purpose, create much greater inefficiency, and reduce the contributions of the agricultural sector to phosphorus, nutrient, and sediment reductions.

**Recommendation:** Do not use a one-size-fits all approach to managing Clean Water Fund funding. Allow each agency to determine the most appropriate structures for service delivery and grant-making to achieve its responsibilities. Funding for agricultural water quality work should be guaranteed in the

CWF budget, not just one possibility among a list of priorities. Remember that agriculture is expected to achieve 67% of the planned phosphorus reduction in the Lake Champlain TMDL!

6. **The proposed decentralization of CWF funding distribution poses quite a bit of risk to the State of Vermont since it is untested.** Failure of the system could lead to costly litigation and postpone the accomplishment of the State's plans.

**Recommendation:** Utilize a variety of funding structures and mechanisms to achieve the State's water quality obligations and goals. Do not undermine structures and mechanisms that have already been shown to be successful.

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## Natural Resources Conservation Districts Mandate:

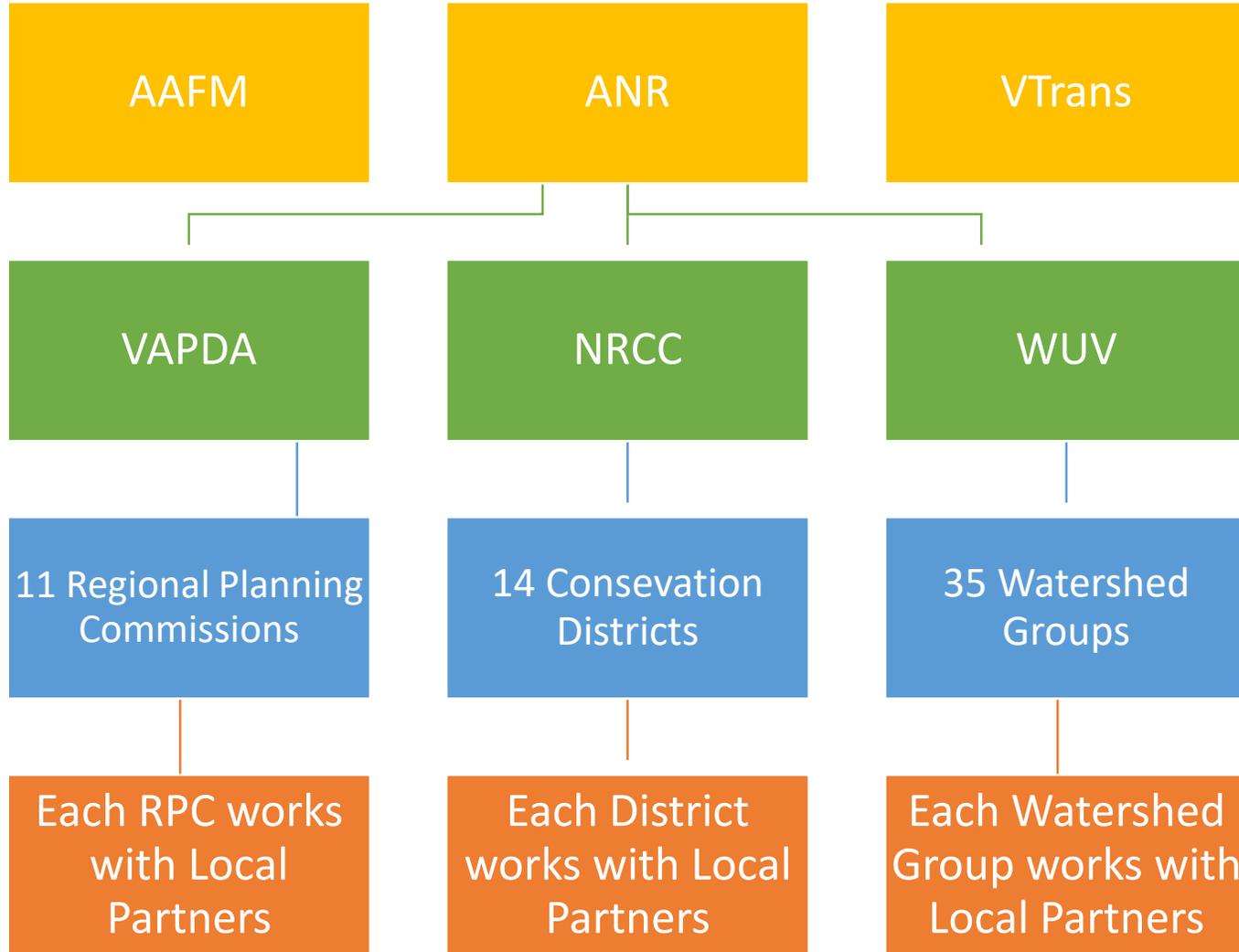
### Title 10: Conservation And Development

#### Chapter 31: Soil Conservation Act

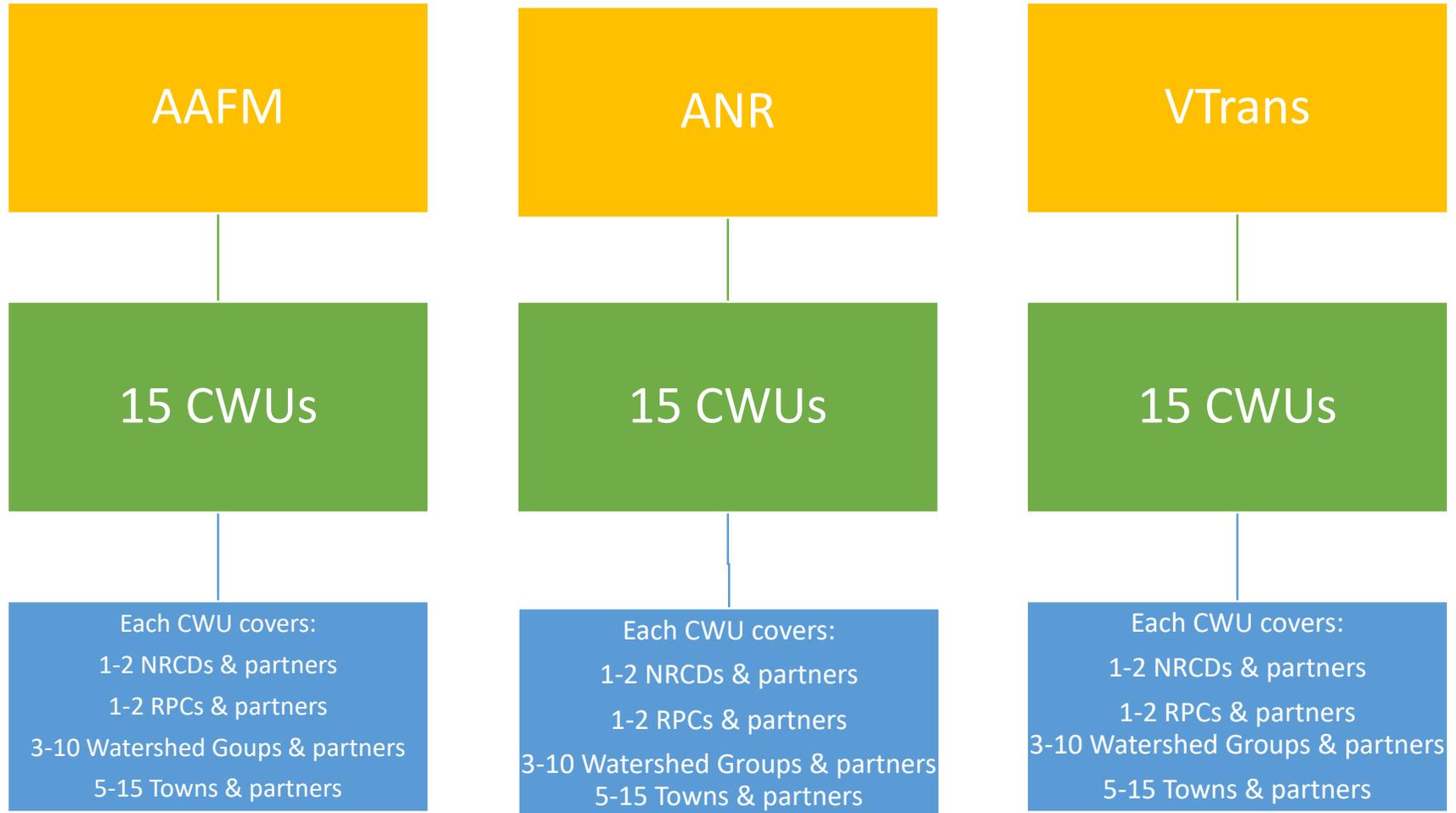
- *Subchapter 1: Conservation, Development And Use Of Natural Resources*
- **§ 701. Policy**

It is hereby declared to be the policy of the Legislature to provide for the conservation, development, and use of the natural resources of this State and that the lands, water, forests, and wildlife of the State of Vermont are among the basic assets of the State, and that the preservation of these lands, water, forests, and wildlife by conservation, development, and use is necessary to protect and promote the health, safety, and general welfare of its people.

# VERMONT CLEAN WATER FUND DISTRIBUTION STRUCTURE EXAMPLE #1



## VERMONT CLEAN WATER FUND DISTRIBUTION STRUCTURE EXAMPLE #2



## VERMONT CLEAN WATER FUND DISTRIBUTION STRUCTURE EXAMPLE #3

